

HOUSE BILL 1356  
By Hensley

AN ACT to amend Tennessee Code Annotated, Title 56,  
relative to small employer health insurance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, is amended by inserting sections 2 through 8 of this act as a new, appropriately designated chapter thereto.

SECTION 2. This act shall be known and may be cited as the "Small Employer Health Insurance Pool Act".

SECTION 3. As used in this chapter, unless the context otherwise requires:

(1) "Eligible employee" means an employee who works for a small employer on a full-time basis, with a normal work week of thirty (30) or more hours. "Eligible employee" shall not include any employees who work for a small employer on a temporary, part-time or substitute basis.

(2) "Group insurer" means any insurer in this state offering a health benefit plan, including any accident or health insurance policy or certificate, nonprofit hospital or medical service corporation contract, hospital or medical service corporation plan contract, health maintenance organization subscriber contract, or plan provided by any other benefit arrangement for the purpose of providing health care coverage, to any employer in this state on behalf of that employer's eligible employees. "Group insurer" does not mean an insurer offering accident-only, specified disease, travel, fixed credit or disability, Medicare supplemental, long-term care, dental only or vision only, workers' compensation, automobile medical payment, or any other limited benefit health insurance policy to any employer in this state on behalf of that employer's eligible employees.

(3) "Small employer" means any person actively engaged in business that, on at least fifty percent (50%) of its working days during the preceding year, employed no less than three (3) eligible employees, the majority of whom are employed within this state. "Small employer" includes companies that have up to fifty (50) eligible employees, but the commissioner may set an employee limit number higher than fifty (50) eligible employees by rule, in the commissioner's discretion. "Small employer" includes companies that are affiliated companies, as defined in § 56-13-102, or that are eligible to file a combined tax return under the Internal Revenue Code. Except as otherwise provided, the provisions of this chapter shall continue to apply until the plan anniversary following the date the employer no longer meets the requirements of this section.

#### SECTION 4.

(a) Each group insurer doing business in this state shall provide the commissioner of commerce and insurance with the following:

(1) The threshold number of eligible employees at which it will accept any employer as eligible for its group policy premium rates; and

(2) A schedule of its group policy premium rates, including age and sex adjustments that are routinely made and any other risk adjustments that are routinely made to the group policy premium rates by the group insurer.

(b) If the commissioner determines that the threshold number of employees at which a particular group insurer deems employers eligible for its group policy premium rates is unreasonable, then the commissioner may assign that group insurer a threshold number of eligible employees.

#### SECTION 5.

(a) Each group insurer doing business in this state, as a requirement of doing business in this state, shall maintain an open pool in which small employers shall be

able to purchase health insurance at group policy premium rates for their eligible employees, provided that:

(1) The small employer is otherwise eligible for group insurance from the group insurer in every aspect except with regard to its number of eligible employees; and

(2) The number of eligible employees in the small employer pool meets or exceeds the threshold number of eligible employees required by that particular group insurer as reported to the commissioner or assigned by the commissioner pursuant to section 4 of this act.

When these requirements are met, then the group insurer shall treat that pool of small employers as one group for the purpose of providing group health insurance coverage for the eligible employees of those small employers.

(b) Notwithstanding the provisions of subsection (a), any small employer carrier, risk-assuming carrier or reinsuring carrier meeting the requirements of title 56, chapter 7, part 22 for the provision of health benefit plans to small employers shall be exempt from the requirements of this chapter.

SECTION 6. Small employers may apply for admission to an open pool at any time, but shall not be guaranteed admission to the open pool unless the small employer meets the standard criteria of the group insurer in every aspect other than that small employer's number of eligible employees. There is no guarantee of the amount of time that a small employer might remain in an open pool without that open pool meeting the threshold number of eligible employees and without receiving access to health insurance coverage on behalf of that small employer's employees.

SECTION 7.

(a) Each group insurer shall provide the small employer pool with the same coverage options, plans offered, benefits, and risk factors used to adjust premium rates as are available to a single employer with the same number of eligible employees as are present in the pool.

(b) Notwithstanding subsection (a), the group insurer may require the entire small employer pool to limit the number of plan options available to the pool or to choose, as a group, a plan option to be adopted as the plan for the entire pool if the group insurer finds it necessary in order to achieve a similar level of risk as would be assumed by the group insurer when insuring a single employer with the same number of eligible employees as are present in the pool. Plan limitations adopted pursuant to this subsection must be approved by the commissioner.

(c) The group insurer may charge a small employer pool up to, but no more than, a six percent (6%) surcharge on the premium rates that would be applicable when insuring a single employer with the same number of eligible employees as are present in the pool, as an administrative cost associated with maintaining the pool.

SECTION 8. The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of title 4, chapter 5.

SECTION 9. This act shall take effect on January 1, 2006, the public welfare requiring it.